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10/091,096	03/04/2002	Michael Kapolka	03-089-B	5890

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EXAMINER

BROADHEAD, BRIAN J

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/091,096

Applicant(s)

KAPOLKA ET AL.

Examiner

Brian J. Broadhead

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-32 and 35-44 is/are rejected.
- 7) ☒ Claim(s) 10, 11, 33 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 24 and 43 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. What correlating the data entails is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). The limitation of the "applications correlates data between at least two vehicle controllers on the same vehicle" is not described in the specification and it is not clear what this means.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-9, 12-24, 26-32, and 35-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Lowrey et al., 2002/0133273.

5. As per claims 1, 26, and 29, Lowrey et al. disclose an on-board unit disposed on the vehicle to send and receive data corresponding to at least one vehicle operating characteristic in paragraph 12; a plurality of modular applications, each application having an associated function that processes the data corresponding to said at least one vehicle operating characteristic obtained via the on-board unit in paragraph 40; and an interface that allows selection among the plurality of modular applications to create a customized system in paragraph 40.

6. As per claim 2, Lowrey et al. disclose at least one on-board unit interface to support communication between the on-board unit and at least one device outside the on-board unit; a processor that manages the data sent and received by the on-board unit via said at least one interface; and a memory coupled to the processor in paragraph 12.

7. As per claims 3 and 27, Lowrey et al. disclose a wireless interface that supports communication with a wireless communication system; component via a vehicle data bus; a vehicle interface that supports communication with at least one vehicle a user interface that supports communication with a user; a serial interface that supports communication with at least one of a driver interface and an on-vehicle device; and a global positioning interface that supports communication with a global positioning system (GPS) device in paragraph 12.

8. As per claims 4 and 28, Lowrey et al. disclose a data parser/requester module that handles non-application specific interfacing between the processor and the vehicle data bus; and an application specific module coupled to the data parser/requestor

module that handles application specific interfacing between the processor and the vehicle data bus in paragraph 12. Lightner et al., 6636790, is incorporated by reference and contains there limitations.

9. As per claim 5, Lowrey et al. disclose the modular applications are selected from the group consisting of third-party applications, system-supplied applications, and core services in paragraph 81.

10. As per claim 6, Lowrey et al. disclose at least one of the third party Applications and system-supplied applications function using information from at least one core service in paragraph 81.

11. As per claim 7, Lowrey et al. disclose the core services include a snapshot service that obtains a set of vehicle parameter values over time in paragraph 78.

12. As per claims 8 and 31, Lowrey et al. disclose the snapshot service causes the on-board unit to cache a selected number of parameter readings with respect to a triggering event on lines 30-33, on column 3, of Lightner et al.

13. As per claims 9, 30, and 32, Lowrey et al. disclose the on-board unit caches the selected number of parameter readings by storing a plurality of parameter readings at selected time intervals on lines 30-33, on column 3, of Lightner et al.

14. As per claims 12 and 35, Lowrey et al. disclose the core services include an alert service that detects at least one of a solicited fault and an unsolicited fault in paragraph 42.

15. As per claims 13 and 36, Lowrey et al. disclose the alert service detects a solicited fault by filtering faults and outputting only faults solicited by a user in paragraph 42.

16. As per claims 14 and 37, Lowrey et al. disclose the alert service includes at least one of the functions from the group consisting of adding and removing individual faults, canceling the alert service for a given fault after an alert has been fired, firing an alert after a parameter exceeds a selected threshold for a selected time period, and comparing a saved parameter with a current parameter to detect tampering in paragraph 42.

17. As per claims 15 and 38, Lowrey et al. disclose the core services include a change parameter service that changes at least one vehicle parameter in response to a request on lines 35-41, on column 6, of Lightner et al.

18. As per claim 16, Lowrey et al. disclose the interface is at least one selected from the group consisting of: a user interface that supports interaction with a human user; and a machine-to-machine interface in paragraph 44.

19. As per claim 17, Lowrey et al. disclose the user interface is a graphical user interface in paragraph 44.

20. As per claim 18, Lowrey et al. disclose a server linking the on-board unit to the interface via the modular applications in paragraph 40.

21. As per claims 19 and 39, Lowrey et al. disclose the server includes at least one of the group consisting of: a web/application server containing logic defining the modular applications; a vehicle server that acts as a translator between the modular

applications and the on-board unit a communications server to support communication via a wireless network; and a database server containing at least one relational data table retaining information associated with the vehicle in paragraph 40.

22. As per claim 20, Lowrey et al. disclose at least one of the server and the modular applications form an application service provider (ASP) infrastructure in paragraph 40.

23. As per claims 21 22, 40, and 41, Lowrey et al. disclose the plurality of modular applications include a remote diagnostics application in paragraph 43; the plurality of modular applications include a leased vehicle management application in paragraph 83.

24. As per claims 23, 24, 42, and 43, Lowrey et al. disclose the plurality of modular applications includes at least one from the group consisting of a remote diagnostics application, a leased vehicle management application, a fuel economy application, a vehicle locating application, a trip reporting application, an engine management application, a maintenance alert application, a vehicle configuration application, and a warranty management application in paragraph 43; and at least one of the plurality of modular applications correlates data between at least two vehicle controllers on the same vehicle in paragraph 81.

***Claim Rejections - 35 USC § 103***

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 25 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowrey et al., 2002/0133273, in view of Coffee et al., 2004/0039504.

27. Lowrey et al. disclose the limitations as set forth above. Lowrey et al. do not disclose one of the modular applications established a setting for a plurality of vehicle with one command sent via the interface. Coffee et al. teach one of the modular applications established a setting for a plurality of vehicle with one command sent via the interface in paragraph 127. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the broadcast message of Coffee et al. in the invention of Lowrey et al. because such modification would provide a way to organize communication.

#### ***Allowable Subject Matter***

28. Claims 10, 11, 33, and 34 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

29. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose detecting a request for a vehicle controller value; outputting a current vehicle controller value if a vehicle controller is available at the time of the request; and output a stored vehicle controller value if the vehicle controller is not available at the time of the request.

#### ***Conclusion***




Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 703-308-9033. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 703-305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BJB

  
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